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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/218,085

Applicant(s)

WALKER ET AL.

Examiner

Steven R. Wasylchak

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50,51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50,52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

RESPONSE TO AMENDMENT

1. Claim 51 is cancelled. Claim 49 is amended. New claim 52 has been added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 16, 19, 31, 34, 46, 50, 52 and respective dependent claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "normal price"(how to **calculate** the normal price? what is an abnormal price? how to **calculate** the abnormal price?); "minimum"(how to **calculate** the minimum?) and "acceptable" (to whom, buyer or seller?) are indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12,14-50, 52 are rejected under 35 U.S.C.103(a) as being unpatentable over Picioccio et al (US 5,997,236) and in view of official notice.

Art Unit: 3624

As per Claim 1,

Picioccio discloses a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the method comprising:

a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I col 9, L 1-4, 56-61.

Picioccio does not explicitly teach normal price data or minimum acceptable price data for each of a plurality of products. However, official notice is taken that both normal price data and minimum acceptable price data for each of a plurality of products is old and well known in the retail and microeconomic arts. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use such data to insure that the breakeven point is met so that the vending machine is not operating at a loss.

b. identifying a monetary value available for purchasing a product; I col 9, L 19-29

c. selecting a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I col 1, L 24-27. Picioccio does not teach a minimum acceptable price. However, official notice is taken that minimum acceptable price data for each of a plurality of products is old and well known in the retail and microeconomic arts. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use such data to insure that the breakeven point is met so that the vending machine is not operating at a loss.

d. outputting via an output device an offer of the product to a consumer; I col 9, L 52-54

e. determining whether the consumer accepts the offer; and I col 9, L 52-54

Art Unit: 3624

f. dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I col 9, L 52-56

As per Claim 2,

Picioccio discloses receiving the monetary value from the consumer. I Picioccio as applied to claim 1 and col 3, L 37-50; col 4, L 43-47

As per Claim 3,

Picioccio discloses that the step of receiving the monetary value includes receiving a credit card account identifier. L Picioccio as applied to claim 1, 2 and col 3, L 37-50; col 4, L 43-47

As per Claim 4,

Picioccio discloses that the step of receiving the monetary value includes receiving a smart card identifier. I refer to reasoning directly above As per Claim 5,

Picioccio discloses that the step of receiving the monetary value includes receiving an electronic representation of currency. / refer to reasoning directly above

As per Claim 6,

Picioccio discloses that the database includes category data for each of the plurality of products, and the step of selecting is further based on the category data. I Picioccio as applied to claim 1 and col 9, L 30-36

As per Claim 7,

Picioccio discloses receiving a category selection from the consumer. I Picioccio as applied to claim 1, 6 and col 9, L 24-29 As per Claim 8,

Art Unit: 3624

Picioccio discloses the step of selecting a product includes

selecting a combination of products. I Picioccio as applied to claim 1 and col 2, L 26-37

As per Claim 9,

Picioccio discloses that the step of maintaining includes determining minimum

acceptable price data based on sales activity. / Picioccio as applied to claim 1 and col 9,

L 56-57

As per Claim 10,

Picioccio discloses that the step of identifying includes receiving

minimum acceptable price data from an operator. I Picioccio as applied to claim 1 and

col 1, L 39-53. Picioccio does not explicitly disclose minimum acceptable price data.

Official notice is taken that this price model is well known in the retail and

microeconomic art. It would have been obvious to one of ordinary skill in the art at the

time of applicant's invention to use this price model to assure profitability or at least

meeting the breakeven point.

As per Claim 11,

Picioccio discloses that the step of determining whether the monetary value is at least

as great as the lowest minimum acceptable price, and

the step of offering is performed only upon determining that the monetary

value is at least as great as the lowest minimum acceptable price. / Picioccio as applied

to claim 1 and col 1, L 44-53; col 5, L 20-24. Picioccio does not explicitly do any price

comparison with lowest minimum acceptable price. However, official notice is taken that

Art Unit: 3624

this form of price comparison is old and well known in the retail and microeconomic art.

It would have been obvious to one of ordinary skill in the art at the time of

applicant's invention to use this price markup to assure this vending machine operates as a profitable profit or breakeven center.

As per Claim 12,

Picioccio discloses that the step of determining includes providing a predetermined amount of time during which the consumer may refuse to accept the product. I Picioccio as applied to claim 1 and col 9, L 1-4. Picioccio does not explicitly disclose the time delay for optional refusal. However, Picioccio does disclose the component that may create a time delay , the PLC (col 9, L 1-4). Furthermore, official notice is taken that it is old and well known in the vending art for a customer to refuse to select and push the return change button. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a microcontroller or PLC to create a time delay feature for possible rejection of the product to allow more choices for the customer.

As per Claim 14,

Picioccio discloses that the database includes profitability data for each of the plurality of products and the step of selecting is further based on the profitability data. / Picioccio as applied to claim 1 and col 9, L 56-67

As per Claim 15,

Art Unit: 3624

Picioccio discloses that the database includes demand data for each of the plurality of products and the step of selecting is further based on the demand data. / Picioccio as applied to claim 1 and col 9, L 56-67

As per Claim 16,

Picioccio discloses a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the method comprising:

- a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 1 a
- b. receiving a first monetary value from a consumer; / refer to reasoning under claim 2
- c. receiving a selection of a first product from the consumer; / refer to reasoning under claim 1 c
- d. retrieving a price of the first product from the database of product data; /refer to reasoning under claim 1 d
- e. calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. / col 1, L 44-54; col 5, L 20-23
- f. selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; / col 1, L 24-28 Picioccio does not explicitly teach the option of selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data.

However, official notice is taken that crediting "change" or refunds to the next

Art Unit: 3624

payment is old and well known in the credit and debt payment (as in the income tax refund option to credit the refund to the next year tax liability) art. It

would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use refunds for complementary purchases and thus to maximize sales. g.

outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 1 d

h. determining whether the consumer accepts the offer; and / refer to reasoning under claim 1 e

i. dispensing the product if the consumer accepts the product; #hereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f

As per Claim 17,

Picioccio discloses a method comprising:

calculating an additional amount, the additional amount being the difference between the second monetary value and the minimum acceptable price of the second product;

and / Picioccio as applied to claim 16 and Picioccio again in col 1, L 44-53

prompting the consumer to supply funds at least equal to the additional amount. /

Picioccio as applied to claim 16 and again in Picioccio in col 1, L 44-47. Picioccio does not explicitly teach "upsell" or the handling of change or refund from the vending

machine. However, official notice is taken that upsell is old and well known in the retail art. It would have been obvious to one of ordinary skill in the art at the time of

applicant's invention to utilize the upsell for a complementary product and thus to maximize sales.

Art Unit: 3624

As per Claim 18,

Picioccio discloses that the database includes complementary product data for each of the plurality of products and wherein the step of selecting is further based on the first product and the complementary product data for the first product. / Picioccio as applied to claim 16 and again in Picioccio: col 5, L 20-24. Picioccio does not teach complementary products. However, official notice is taken that complementary products are old and well known in the food retail industry. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use complementary data for marketing feedback to determine the degree of correlation among various complementary pairs to increase sales.

As per Claim 19,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:

a. a processor; / Picioccio: col 5, L 20-26

b. a memory connected to said processor storing a program to control the operation of said processor; / refer to reasoning directly above

the processor operative with the program in the memory to:

c. maintain a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 1 a.

d. identify a monetary value available for purchasing a product; I refer to reasoning under claim 1 b.

e. select a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I refer to reasoning under claim 1 c.

f. output via an output device an offer of the product to a consumer; I refer to reasoning under claim 1 d.

g. determine whether the consumer accepts the offer; and I refer to reasoning under claim 1 e.

h. dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 1 f.

As per Claim 20,

Picioccio discloses the processor is operative with the program in the memory to determine the monetary value received from the consumer. I Picioccio as applied to claim 19 and again in Picioccio: col 5, L 20-26

As per Claim 21,

Picioccio discloses that the database includes category data for each of the plurality of products and the step of selecting is based on the category data. I Picioccio as applied to claim 19, 20 and refer to reasoning under claim 6

As per Claim 22,

Picioccio discloses the processor is operative with the program in the memory to receive a category selection from the consumer. / Picioccio as applied to claim 19 and refer to reasoning under claim 7

Art Unit: 3624

As per Claim 23,

Picioccio discloses the processor is operative with the program in the memory to select a combination of products. / Picioccio as applied to claim 19 and refer to reasoning under claim 8

As per Claim 24,

Picioccio discloses the processor is operative with the program in the memory to determine minimum acceptable price data based on sales activity. I Picioccio as applied to claim 19 and refer to reasoning under claim 9

As per Claim 25,

Picioccio discloses the processor is operative with the program in the memory to receive minimum acceptable price data from an operator. I Picioccio as applied to claim 19 and refer to reasoning under claim 10

As per Claim 26,

Picioccio discloses the processor is operative with the program in the memory to determine whether the monetary value is at least as great as the lowest minimum acceptable price, and to offer the product performed only upon determining that the monetary value is at least as great as the lowest minimum acceptable price. I Picioccio as applied to claim 19 and refer to reasoning under claim 11

As per Claim 27,

Picioccio discloses the processor is operative with the program in the memory to provide a predetermined amount of time during which the consumer may refuse to

accept the product. I Picioccio as applied to claim 19 and refer to reasoning under claim 12

As per Claim 28,

Picioccio discloses the database includes expiration data for each of the plurality of products and the processor is further operative with the program in the memory to select the product based on the expiration data. I Picioccio as applied to claim 19 and refer to reasoning under claim 13

As per Claim 29,

Picioccio discloses the database includes profitability data for each of the plurality of products and the processor is further operative with the program in the memory to select the product based on the profitability data. I Picioccio as applied to claim 19 and refer to reasoning under claim 14

As per Claim 30,

Picioccio discloses that the database includes demand data for each of the plurality of products and the processor is further operative with the program in the memory to select the~product based on the demand data. I Picioccio as applied to claim 19 and refer to reasoning under claim 16

As per Claim 31,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:
a processor; I refer to reasoning under claim 19 a.
a memory connected to said processor storing a program to control the

Art Unit: 3624

operation of said processor; I refer to reasoning under claim 19 b. the processor operative with the program in the memory to:

maintain a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 16 a.

receive a first monetary value from a consumer; / refer to reasoning under claim 16 b.

receive a selection of a first product from the consumer; I refer to reasoning under claim 16 c.

retrieve a price of the first product from the database of product data; I refer to reasoning under claim 16 d.

calculate a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product I refer to reasoning under claim 16 e.

select a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; I refer to reasoning under claim 16 f.

output via an output device an offer of the second product to the consumer; I refer to reasoning under claim 16 g.

determine whether the consumer accepts the offer; and I refer to reasoning under claim 16 h.

dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 16 i.

Art Unit: 3624

As per Claim 32,

Picioccio discloses the processor is operative with the program in the memory to: calculate an additional amount, the additional amount being the difference between the second monetary value and the minimum acceptable price of the second product; and I Picioccio as applied to claim 31 and refer to reasoning under claim 17 prompt the consumer to supply funds at least equal to the additional amount. I Picioccio as applied to claim 31 and refer to reasoning under claim 17

As per Claim 33,

Picioccio discloses that the database further includes complementary product data for each of the plurality of products and the processor is operative with the program in the memory to select the product based on the initial product and the complementary product data for the initial product. I Picioccio as applied to claim 31 and refer to reasoning under claim 18

As per Claim 34,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising: means for maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 1 a.

means for identifying a monetary value available for purchasing a product; I refer to reasoning under claim 1 b.

means for selecting a product from among the plurality of products based on

Art Unit: 3624

the monetary value and the minimum acceptable price data; / refer to reasoning under claim 1 c.

means for outputting via an output device an offer of the product to a consumer; / refer to reasoning under claim 1 d.

means for determining whether the consumer accepts the offer; and / refer to reasoning under claim 1 e.

means for dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f.

As per Claim 35,

Picioccio discloses comprising the means for receiving the monetary value from the consumer. I Picioccio as applied to claim 34 and refer to reasoning under claim 5

As per Claim 36,

Picioccio discloses the database includes category data for each of the plurality of products and the means for selecting is further based on the category data. I Picioccio as applied to claim 34 and refer to reasoning under claim 6

As per Claim 37,

Picioccio discloses the comprising means for receiving a category selection from the consumer. I Picioccio as applied to claim 34 and refer to reasoning under claim 7

Art Unit: 3624

As per Claim 38,

Picioccio discloses the means for selecting a product includes means for selecting a combination of products. I Picioccio as applied to claim 34 and refer to reasoning under claim 8

As per Claim 39,

Picioccio discloses the means for maintaining includes means for determining minimum acceptable price data based on sales activity. I Picioccio as applied to claim 34 and refer to reasoning under claim 9

As per Claim 40,

Picioccio discloses the means for identifying includes means for receiving minimum acceptable price data from an operator. I Picioccio as applied to claim 34 and refer to reasoning under claim 10

As per Claim 41,

Picioccio discloses means for determining whether the monetary value is at least as great as the lowest minimum acceptable price, and wherein the means for offering is operative only upon determining that the monetary value is at least as great as the lowest minimum acceptable price. / Picioccio as applied to claim 34 and refer to reasoning under claim 11

As per Claim 42,

Picioccio discloses the means for providing a predetermined amount of time during which the consumer may refuse to accept the product. I Picioccio as applied to claim 34 and refer to reasoning under claim 12

As per Claim 43,

Picioccio discloses that the database includes expiration data for each of the plurality of products and the means for selecting operates based on the expiration data. I Picioccio as applied to claim 34 and refer to reasoning under claim 13

As per Claim 44,

Picioccio discloses that the database further includes profitability data for each of the plurality of products and the means for selecting operates based on the profitability data. I Picioccio as applied to claim 34 and refer to reasoning under claim 14

As per Claim 45,

Picioccio discloses that the database includes demand data for each of the plurality of products and the means for selecting operates based on the demand data. / Picioccio as applied to claim 34 and refer to reasoning under claim 15

As per Claim 46,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:
means for maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 16 a.

means for receiving a first monetary value from a consumer; means for receiving a selection of a first product from the consumer; I refer to reasoning under claim 16 b.

Art Unit: 3624

means for retrieving a price of the first product from the database of product data; I refer to reasoning under claim 16 c.

means for calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. / refer to reasoning under claim 16 d.

means for selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable-price data; / refer to reasoning under claim 16 e.

means for outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 16 f.

means for determining whether the consumer accepts the offer; and I refer to reasoning under claim 16 g.

means for dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 16 h.

As per Claim 47,

Picioccio discloses the means for calculating an additional amount, the additional amount being the difference between the monetary value and the minimum acceptable price of the second product; and means for prompting the consumer to supply funds at least equal to the additional amount. I Picioccio as applied to claim 46 and refer to reasoning under claim 17

As per Claim 48,

Picioccio discloses that the database includes complementary product data for each of the plurality of products and the means for selecting operates based on the initial product and the complementary product data for the initial product. / Picioccio as applied to claim 46 and refer to reasoning under claim 18

As per Claim 49,

Picioccio discloses a computer-readable storage medium encoded with processing instructions for implementing a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the processing instructions for directing a computer to perform the steps of:

- a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 1 a.
- b. identifying a monetary value available for purchasing a product; I refer to reasoning under claim 1 b.
- c. selecting a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I refer to reasoning under claim 1 c.
- d. outputting via an output device and offer of the product to a consumer via an output device; I refer to reasoning under claim 1 d.
- e. determining whether the consumer accepts the product; and I refer to reasoning under claim 1 e.

Art Unit: 3624

f. dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f.

As per Claim 50,

Picioccio discloses a computer-readable storage medium encoded with processing instructions for implementing a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the processing instructions for directing a computer to perform the steps of:

maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 16 a.

receiving a first monetary value from a consumer; / refer to reasoning under claim 16 b.

receiving a selection of a first product from the consumer; I refer to reasoning under claim 16 c.

retrieving a price of the first product from the database of product data; I refer to reasoning under claim 16 d.

calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. I refer to reasoning under claim 16 e.

selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; / refer to reasoning under claim 16 f.

Art Unit: 3624

outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 16 g.

determining whether the consumer accepts the offer; and / refer to reasoning under claim 16 h.

dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 16 i.

As per claim 52 (new),

A method for selling from a vending machine, the method comprising:

receiving currency that represents a first monetary amount;/ refer to claim 16b, 49b

receiving a selection of a first product;/ refer to claim 16c

determining a price of the first product;/ refer to claim 16d

determining a demand of the first product;/ refer to claim 16d

calculating a second monetary amount based on the difference between the first monetary value and the price of the first product./ refer to claim 16e

selection a second product from; the plurality of products based on the second monetary value and minimum acceptable price data for the plurality of products;/ refer to claim 16e

outputting an offer of the selected second product without disclosing the identity of the selected second product;/ refer to claim 16g; col 9, L 52-54

receiving an acceptance of the offer; and/ refer to refer to 16h

dispensing the selected second product./ refer to claim 49f; col 9, L 52-56

6. Claim 13 is rejected under 35 USC 103(a) as being unpatentable over Picioccio as applied to claim 1 and in view of Koga (Japan: H9-198554).

Koga discloses that the database further includes expiration data for each of the plurality of products and the step of selecting is further based on the expiration data. I

Picioccio as applied to claim 1 and Koga: page 1

See Picioccio, col 1, L 9-13; 24-30; 44-53: examiner respectfully asserts that there is a possibility of operating at a loss or not meeting a breakeven point. Prices of items sold in the vending machines make up marginal revenue and where marginal revenue equals marginal cost, we have maximum profit for the firm's vending machines (Samuelson, Economics, p 532). Breakeven is at the inflection point of the average cost curve (Samuelson, Economics, p 446). Picioccio, as per col 1 above, as a firm, has a cost accounting process and pricing policy per se that subsumes the possibility of operating at a loss or not meeting a breakeven point.

This action is NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday - Thursday from 8:00am to 6:30pm.

Art Unit: 3624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone is (703) 308-1113

Steven R Wasylchak

10/18/02/



HANI M. KAZIMI
PRIMARY EXAMINER